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Notice of Allowability	Application No.	Applicant(s)	
	09/963,777	KIEVAL ET AL.	
	Examiner	Art Unit	
	Frances P. Oropeza	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. ☒ This communication is responsive to 3/10/06 (Amendment).
- 2. ☒ The allowed claim(s) is/are 1-30 and 47.
- 3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- 4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 4/24/06.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- 6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>4/24/06</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>12/8/05</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

ALLOWANCE

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview between James M. Heslin and Frances P. Oropeza on 4/24/06.

The application has been amended as follows:

In claim 47, line 2, after "sinus" the following has been inserted --having a--.

In the specification, page 1, line 3, "Application Serial" has been deleted.

In the specification, page 1, line 3, "09/671,850" has been deleted and --6,522,926-- has been inserted.

In the specification, page 1, line 5, "Application Serial" has been deleted.

In the specification, page 1, line 5, after "No." the underline has been deleted and --6,985,744-- has been inserted.

In the specification, page 1, line 7, "Application Serial" has been deleted.

In the specification, page 1, line 7, after "No." the underline has been deleted and --6,850,801-- as been inserted.

In the specification, page 45, line 18, "Application Serial" has been deleted.

In the specification, page 45, line 19, after "No." the underline has been deleted and --6,850,801-- has been inserted.

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In the specification, page 45, line 23, "Application Serial" has been deleted.

In the specification, page 45, starting at line 23, after "No." the underline has been deleted and
--6,985,774-- has been inserted.

On the Bio Data Sheet, after "09/964,079 09/26/2001" the following has been inserted

--PAT 6,985,774--.

On the Bio Data Sheet, after "09/963,991 09/26/01" the following has been inserted

--PAT 6,850,801--.

Declaration

2. The declaration filed on 12/7/05 under 37 CFR 1.131 is sufficient to overcome the Zabara reference (US 5540734).

Drawings

3. Per the interview summary, upon allowance of the application, formal drawings are required.

The application having been allowed, a formal drawings of figures 1-32 are required in response to this Office action in reply the to this Office action to avoid abandonment of the application. The correction to the drawing will not be held in abeyance.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

Frances P. Oropeza
Patent Examiner
Art Unit 3766

FR
4/24/06


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3766